

# ***SGR 2009/1A2 - Addendum - Superannuation guarantee: payments made to sportspersons***

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## Addendum

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### Superannuation Guarantee Ruling

#### Superannuation guarantee: payments made to sportspersons

This Addendum amends Superannuation Guarantee Ruling SGR 2009/1 due to developments in the law. In particular, the following recent Administrative Appeals Tribunal and Federal Court decisions support the Commissioner's views in SGR 2009/1:

- *Commissioner of Taxation v Racing Queensland Board* [2019] FCAFC 224
- *Commissioner of Taxation v Scone Race Club Limited* [2019] FCAFC 225, and
- *General Aviation Maintenance Pty Ltd and Commissioner of Taxation* [2012] AATA 120.

Amendments made to SGR 2009/1 by this Addendum are in the nature of adding citations for, or illustrations of, the Commissioner's views. They do not change the effect of the Ruling.

SGR 2009/1 has also been updated to reflect that the '70 years of age or over exception', formerly contained in subsection 27(1)(a) of the *Superannuation Guarantee (Administration) Act 1992*, was repealed from 1 July 2013 by the *Superannuation Guarantee (Administration) Amendment Act 2012*.

SGR 2009/1 is amended as follows:

#### 1. Paragraph 69

After the words 'paragraphs 83-84' in footnote 37, insert:

, and *General Aviation Maintenance Pty Ltd and Commissioner of Taxation* [2012] AATA 120 (*General Aviation*) at [30]

#### 2. Paragraph 82

At the end of the second sentence, insert new footnote 40A:

<sup>40A</sup> In *General Aviation* at [30], it was found that the Tandem Master's video recording of skydives was a service covered by either paragraph 12(8)(b) or (c).

#### 3. Paragraph 85

(a) At the end of the first sentence, insert new footnote 41A:

<sup>41A</sup> See *Commissioner of Taxation v Racing Queensland Board* [2019] FCAFC 224 at [50–52], and *Commissioner of Taxation v Scone Race Club Limited* [2019] FCAFC 225 at [10–11], per Griffiths J (adopted by Steward J at [82] and [84], whose reasons were agreed with by Derrington J at [80]).

- (b) Omit each instance of the word 'making'; substitute 'liable to make'.

**4. Paragraph 124**

- (a) Omit the words 'exclusions for salary or wages paid to employees who are 70 years of age or over and'.
- (b) Omit footnote 70.

This Addendum applies on and from the date of issue.

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**Commissioner of Taxation**

3 November 2021

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ATO references

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